

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

CV 10 3988

DOUGLAS HEIMOWITZ,

Plaintiff,

v.

RANDOM HOUSE, INC.,

Defendant.

Case No.

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

COMPLAINT AUG 31 2010

LONG ISLAND OFFICE

SPATT, J.  
TOMLINSON, M

NOW COMES Plaintiff, DOUGLAS HEIMOWITZ who, by and through his undersigned attorneys, INTELLECTULAW The Law Offices of P.B. Tufariello, P.C., on his behalf, and for his Complaint against the above named Defendant RANDOM HOUSE, INC., alleges and avers as follows:

PARTIES

1. Plaintiff DOUGLAS HEIMOWITZ (hereinafter "Plaintiff" or "Mr. Heimowitz"), is an individual, U.S. citizen, residing at 20 St. Lawrence Place, Jericho, New York 11753.
2. Upon information and belief, Defendant RANDOM HOUSE, INC. (hereinafter "Random House" or "Defendant"), is a corporation duly organized and existing under the laws of the State of New York, having a regular and established place of business at 1745 Broadway, New York, New York 10019.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction of this action on the following basis:
  - a. Under 28 U.S.C. § 1331 since this action arises under the Laws of the United States, *i.e.*, the Lanham Act §43(a), 15 U.S.C. § 1125(a);
  - b. Under 28 U.S.C. § 1338 since this action arises under the Trademark and Unfair

Competition Laws of the United States, *i.e.*, the Lanham Act §43(a), 15 U.S.C. § 1125(a);

- c. Under 15 U.S.C. § 1121 since this action involves questions arising under the Trademark Laws of the United States, Lanham Act §43(a), 15 U.S.C. § 1125(a); and
- d. Under 28 U.S.C. § 1367(a) since this action alleges state law violations that are part of the same case or controversy as those claims arising under the laws of the United States.

- 4. Venue is proper in the United States District Court for the Eastern District of New York, pursuant to 28 U.S.C. § 1391(b) since a substantial portion of the harm sought to be avoided, and a substantial part of the events and omissions giving rise to the claims asserted herein, occurred within this district.

### **FACTUAL BACKGROUND**

- 5. As a young man, Mr. Heimowitz lived in Queens, New York.
- 6. He attended Queens College from 1978 through 1982, wherefrom he graduated with a Bachelors of Art in English. A copy of Mr. Heimowitz's resume is annexed hereto as **Exhibit 1**.
- 7. Mr. Heimowitz is a very well known insurance agent (*see Exhibit 1*). He is licensed by the State of New York as an insurance agent in each of the areas of Health and Accident Insurance, respectively. A copy of Mr. Heimowitz's Insurance License, No. LA-870238, is annexed hereto as **Exhibit 2**.
- 8. Mr. Heimowitz's license and his ability to periodically renew it, is very important to him. Not being able to renew his license will be extremely detrimental to Mr. Heimowitz and his family, both personally and professionally.
- 9. Mr. Heimowitz has long been an insurance agent in the areas of health and accident insurance. As a result, he has become well known to the relevant public and trade.

10. Mr. Heimowitz's reputation is exemplary. Consequently, the public has come to distinguish Mr. Heimowitz exclusively and uniquely as the source of the high quality insurance services he provides.
11. Upon information and belief, Plaintiff is the only individual in the United States bearing the name DOUGLAS HEIMOWITZ.
12. Representative specimens of some of the positive public references to Mr. Heimowitz, and to the public's recognition of the high quality services and care he provides are annexed hereto as **Exhibit 3**. They include a public announcement of Mr. Heimowitz's receipt of a Community Health Partner Award from Councilman Bill De Blasio on or about the end of 2008.
13. With very few exceptions, Mr. Heimowitz has never authorized or consented to anyone's use in commerce, of his personal identity and his right to publicity, or any simulation, reproduction, copy, counterfeit or colorable imitation thereof.
14. Upon information and belief, Random House is a publisher of books.
15. Upon information and belief, on or about June 2010, Spiegel & Grau, an imprint of The Random House Publishing Group, a division of Random House published a book entitled "Lay the Favorite - **A memoir of gambling**"(hereinafter referred to as "the Book") (emphasis added). A copy of the cover of the Book together with excerpts is annexed hereto as **Exhibit 4**.
16. At the beginning of the Book, the following disclaimer is made: "Lay the Favorite is a work of nonfiction." A copy of the page containing such disclaimer is annexed hereto as part of **Exhibit 4**.
17. The main character and protagonist in the Book is called Douglas Heimowitz and nicknamed "Dink."
18. There are many similarities between Mr. Heimowitz and the protagonist in Defendant's Book Douglas Heimowitz a.k.a. Dink:
  - a. They both lived in Queens: "When Dink Heimowitz was eleven years old his

mother, Freda, took him and his friend Howie on a subway ride to the 1964 World's Fair in Flushing, Queens." See p.17 annexed hereto as part of **Exhibit 4**;

- b. They are both Jewish: "Dink was just a Jewish bookmaker from Queens." See p.32 annexed hereto as **Exhibit 4**;
- c. They both went to same schools: "Dink was only sixteen, but already a freshman at Queens College." See p.20 annexed hereto as **Exhibit 4**;
- d. Their physical appearances match: "The door opened, revealing a guy about six-foot-four . . . He introduced himself as Dink." See p.6 annexed hereto as part of **Exhibit 4**;
- e. They both have the same name: "Douglas Heimowitz." As s was set forth before Mr. Heimowitz is the only individual in the United States that bears the name Douglas Heimowitz.

19. On the other hand, unlike Mr. Heimowitz, Defendant's protagonist Douglas Heimowitz is involved in illegal gambling activities. As a result he has a criminal record, where Mr. Heimowitz has not.

20. Referrals regarding the character Douglas Heimowitz ("Dink") and his conflicts with the law are made throughout the Book. One example is as follows:

The Honorable George E. Woods entered the courtroom.  
"All rise."

The United States of America versus Douglas Heimowitz. a.k.a. Dinky.  
"You may be seated."

"Mr. Burdick. Did your client take bets from Mr. Henry Hilf?" the judge asked.

"Yes, your honor," Burdick replied. "He's a New York City book-maker, that's his job. Nothing more than that."

"Mr. Heimowitz, you're getting a ten-thousand-dollar fine and one year at a corrections center," the judge said. "I don't have any facility. You and your attorney figure that out."

Raymer, B., Lay the Favorite, Spiegel & Grau 2010, pp.70-71, **Exhibit 4**.

21. Another example:

When we arrived at the Miami airport and checked in for our flight, Dink really did have to show his felony card to the attendant behind the counter. The expression on her face changed as she read

the words: "Douglas Heimowitz. Convicted Felon."  
"Thank you, sir," the woman stammered, returning the card..

Id., p.99, **Exhibit 4**.

22. The similarities between Defendant's protagonist Douglas Heimowitz and the real Mr. Heimowitz create a strong public confusion that the character Douglas Heimowitz and Mr. Heimowitz are one and the same, and that Mr. Heimowitz is a criminal.
23. The word "memoir" in the title of the book and the disclaimer that the Book is a work of nonfiction contribute to this confusion (*see* **Exhibit 4**).
24. Mr. Heimowitz is not a criminal.
25. Mr. Heimowitz is not and was never involved in illegal gambling activities as Defendant's character Douglas Heimowitz.
26. Mr. Heimowitz does not have a criminal background as Defendant's character Douglas Heimowitz has.
27. Random House has been using Mr. Heimowitz's personal identity in connection with the authoring, publication, distribution and sale of the Book.
28. Defendant's Book was heavily publicized by, among others THE NEW YORK POST, THE NEW YORKER, THE NEW YORK TIMES, NEWSDAY, LOS ANGELES TIMES, LAS VEGA REVIEW JOURNAL, NPR, BARNES & NOBLE and such websites as [www.thesecondpass.com](http://www.thesecondpass.com) , [www.therxforum.com](http://www.therxforum.com), [www.lasvegascitylife.com](http://www.lasvegascitylife.com), and [www.powells.com](http://www.powells.com). Excerpts of such publication are attached hereto as **Exhibits 5-16**.
29. Defendant's Book is for sale at major book retailers in the United States, as well as online worldwide.
30. Upon information and belief, a movie is contemplated and is already in the works for Defendant's Book. A news piece to that effect is attached hereto as **Exhibit 17**.
31. Under the circumstances and upon information and belief, it is Mr. Heimowitz's concern that his personal identity will be used in connection with the authoring, publication,

distribution and sale of the movie, as well.

32. Mr. Heimowitz has never permitted, authorized or consented to Random House's use in commerce of his personal identity and his right to publicity.
33. As a result of the heavy publication of the book, particularly in all the major New York area newspapers and via the Internet, Mr. Heimowitz has received many inquiries by telephone and otherwise.
34. Such inquiries have disturbed Mr. Heimowitz greatly. He and both his immediate and extended family are in shock.
35. Mr. Heimowitz is unable to sleep.
36. Mr. Heimowitz's health is severely affected.
37. Mr. Heimowitz is very concerned not only about his present and future employment but about his college age children's future employment prospects as well.
38. Mr. Heimowitz is extremely concerned that his license might be suspended or revoked.
39. Mr. Heimowitz is worried that there is nothing he can do to prevent the tarnishing of his reputation or undo any damage Defendants' Book, the publicity it has received and the impending movie might cause to his name and persona.
40. Mr. Heimowitz is not and was never involved in illegal gambling activities as Defendant's character Douglas Heimowitz.
41. Mr. Heimowitz does not have a criminal background as Defendant's character Douglas Heimowitz.
42. After the Book was published, Mr. Heimowitz specifically notified Defendant that he did not consent to the use of his name. A copy of Mr. Heimowitz's cease and desist letter with such notification, without exhibits, as sent to Defendant is annexed hereto as **Exhibit 18**. Notwithstanding this notice, Defendant is continuing to use Mr. Heimowitz's name and persona in advertising and for purposes of trade without his consent.

**COUNT I**  
**UNFAIR COMPETITION FALSE DESIGNATION OF ORIGIN**  
**VIOLATION OF LANHAM ACT (15 U.S.C. §1125(a))**

43. Plaintiff Mr. Heimowitz incorporates by reference the allegations contained in paragraphs 1-42 of the Complaint as though fully set forth herein.
44. Plaintiff Mr. Heimowitz has labored meticulously and diligently for years in his career as an insurance agent. As the highly recognized and highly decorated professional that Mr. Heimowitz is, he has become successful and well known.
45. As a result, Mr. Heimowitz has created a general acceptance, good will and substantial value in his likeness, persona, and name the effect of which was to create an absolute, incorporeal, and transferable property right with a substantial commercial value in the eyes of the public.
46. Defendant has wrongfully misappropriated and used Mr. Heimowitz's likeness, persona and name in commerce on and in connection with the Book and possibly for other purposes.
47. By creating, publishing, marketing and distributing the Book with Mr. Heimowitz's likeness, persona and name, Defendant has falsely represented to the public that Mr. Heimowitz has endorsed, sponsored or is associated with the Book and its publisher the Defendant.
48. As a result, members of the public will be and in fact have actually been deceived and/or confused into believing that the Book and Defendant are endorsed by, sponsored or associated with Mr. Heimowitz.
49. Defendant's unauthorized actions are likely to harm and have harmed Mr. Heimowitz, diminish his ability to control use of his likeness, persona and name, and harm his ability to use or authorize the use of his likeness, persona and name in commerce.
50. Defendant's foregoing actions constitute unfair competition, false designation of origin and false advertising in connection with the Book distributed in interstate commerce, in

violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

51. The above actions by Defendant have caused and will cause great damage to Mr. Heimowitz' goodwill, reputation and commercial interests. The injury is and unless enjoined will continue to be ongoing and irreparable.
52. Defendant's actions constitute a deliberate and willful violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) making this case exceptional within the meaning of 15 U.S.C. §§ 1117 and 1118.
53. Mr. Heimowitz is entitled to a preliminary and permanent injunction against Defendant, as well as other remedies available under the Lanham Act, including but not limited to, compensatory damages, disgorgement of profits, treble damages, and costs and attorneys' fees.

**COUNT II**  
**FALSE REPRESENTATION**  
**VIOLATION OF LANHAM ACT (15 U.S.C. §1125(a))**

54. Plaintiff Mr. Heimowitz incorporates by reference the allegations contained in paragraphs 1-53 of the Complaint as though fully set forth herein.
55. Defendant's aforementioned acts constitute false endorsement in violation of 15 U.S.C § 1125(a), Lanham Act Section 43(a).
56. Defendant's unauthorized publication, promotion and dissemination of the Book in commerce constitutes false and misleading representations that the Book is sponsored, endorsed and/or authorized by Mr. Heimowitz. Such false and misleading representations are likely to confuse, mislead or deceive consumers as to the affiliation, connection and/or association of Mr. Heimowitz with the Book, in violation of 15 U.S.C. § 1125(a), Lanham Act Section 43(a).
57. The above actions by Defendant have caused and will cause great damage to Mr. Heimowitz' goodwill, reputation and commercial interests. The injury is and unless enjoined will continue to be ongoing and irreparable. An award of monetary damages



alone cannot fully compensate Mr. Heimowitz for his injuries and Mr. Heimowitz lacks an adequate remedy at law.

58. Defendant's actions constitute a deliberate and willful violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) making this case exceptional within the meaning of 15 U.S.C. §§ 1117 and 1118.

59. Mr. Heimowitz is entitled to a preliminary and permanent injunction against Defendant, as well as other remedies available under the Lanham Act, including but not limited to, compensatory damages, disgorgement of profits, treble damages, and costs and attorneys' fees.

**COUNT III**  
**VIOLATION OF RIGHTS TO PRIVACY AND PUBLICITY,**  
**NEW YORK CIVIL RIGHTS LAW §§ 50, 51**

60. Plaintiff incorporates by reference the allegations contained in paragraphs 1-59 of the Complaint as though fully set forth herein.

61. Defendant has used, and, unless enjoined, will continue to use, Mr. Heimowitz's name for advertising purposes and for purposes of trade in the State of New York without Mr. Heimowitz's written consent, in violation of N.Y. Civ. Rights Laws §§ 50 and 51.

62. Mr. Heimowitz has labored meticulously and diligently for years in his career as an insurance agent, and has become quite successful and well known.

63. By virtue of Mr. Heimowitz's significant expenditures of time, effort and talent, and the recognition of Mr. Heimowitz's fame in the insurance business, Mr. Heimowitz has rights of publicity in his likeness, persona and name.

64. Defendant was and is aware that Mr. Heimowitz had not consented to the use of his name in connection with the Book.

65. After the Book was published, Mr. Heimowitz specifically informed Defendant that he did not consent to the use of his name. Notwithstanding this notice, Defendant is continuing to use Mr. Heimowitz's name in advertising and for purposes of trade without

his consent.

66. Defendant's use of Mr. Heimowitz's name is not in connection with newsworthy events, but is for the purpose of trade and commerce, in connection with Defendant's sale and advertising of its Book
67. Defendant appropriated Mr. Heimowitz's name for the value associated with it, and not in an incidental manner or for a newsworthy purpose.
68. The appropriation was for the Defendant's advantage, in that Plaintiff's name was used and intended by Defendant to create and enhance Defendant's pecuniary gain and profit resulting from the appropriation, distribution, dissemination, circulation, advertisement and/or exploitation of Mr. Heimowitz's persona and name in the Book.
69. Defendant's aforesaid uses of Mr. Heimowitz's persona and name, constitute intentional and willful infringements of Mr. Heimowitz's rights of publicity and privacy in violation of NY Civ. Rights Law §§ 50, 51.
70. Mr. Heimowitz has no adequate remedy at law and has suffered, and will continue to suffer, irreparable harm and damage as a result of Defendant's aforesaid acts, which, if not enjoined, will cause continued injury and loss.
71. Mr. Heimowitz is entitled to a preliminary and permanent injunction against Defendant, as well as all other remedies available under New York law, including, but not limited to, compensatory damages and exemplary damages.

**COUNT IV**  
**DEFAMATION**

72. Plaintiff Mr. Heimowitz incorporates by reference the allegations contained in paragraphs 1-71 of the Complaint as though fully set forth herein.
73. The aforementioned and many other patently false and misleading statements concerning Mr. Heimowitz that Defendant has made throughout the Book and during the promotion process of the Book, exposed Mr. Heimowitz to public hatred, shame, contempt, ridicule,

ostracism, degradation and/or disgrace, induced an evil opinion of Mr. Heimowitz in the minds of right-thinking persons, and/or deprived Mr. Heimowitz of confidence and friendly intercourse in society.

74. The aforesaid acts of defamation not only disparaged Mr. Heimowitz and directly attacked his competence, credibility and reputation as a professional insurance agent, but also impugned his basic integrity and/or creditworthiness as a law-abiding, peaceful, non-violent human being.

75. Unless Defendant is enjoined from its wrongful conduct, Mr. Heimowitz will suffer further irreparable injury and harm, for which it has no adequate remedy at law.

76. As a consequence of the foregoing misconduct of Defendant, Mr. Heimowitz has been damaged in an amount exceeding the jurisdictional requirements of this Court, and is entitled to an award of compensatory and punitive damages in an amount to be determined at trial

**COUNT V**  
**FALSE LIGHT**

77. Plaintiff Mr. Heimowitz incorporates by reference the allegations contained in paragraphs 1-76 of the Complaint as though fully set forth herein.

78. The aforesaid statements concerning Mr. Heimowitz, a private citizen, made by Defendant in the Book were substantially false and portray Mr. Heimowitz in a false light that would be considered highly offensive by any reasonable person and/or objective standard.

79. Given the intense advertising of the Book, such statements were made available throughout the United States to a significantly large, nationwide, public audience.

80. Defendant did so knowing they were false and/or acted in reckless disregard as to the falsity of the publicized statements and the false light in which Mr. Heimowitz was thereupon placed.

81. As a consequence of Defendant's publication and advertising of the statements casting Mr. Heimowitz in a false light, Mr. Heimowitz sustained conscious pain and suffering, physical injury, great mental distress, shock, fright, humiliation and economic loss.
82. As a consequence of the foregoing misconduct of Defendant, Mr. Heimowitz has been damaged in an amount exceeding the jurisdictional requirements of this Court, and is entitled to an award of compensatory and punitive damages in an amount to be determined at trial

**COUNT VI**  
**PRIMA FACIE TORT**

83. Plaintiff Mr. Heimowitz incorporates by reference the allegations contained in paragraphs 1-82 of the Complaint as though fully set forth herein.
84. Defendant's conduct, as described herein above, was completely unjustified and unwarranted, and was intended to inflict substantial harm upon Plaintiff Mr. Heimowitz.
85. As a consequence of the foregoing misconduct of Defendant, Mr. Heimowitz has been damaged in an amount exceeding the jurisdictional requirements of this Court, and is entitled to an award of compensatory and punitive damages in an amount to be determined at trial.

**COUNT VII**  
**INTENTIONAL/NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

86. Plaintiff Mr. Heimowitz incorporates by reference the allegations contained in paragraphs 1-85 of the Complaint as though fully set forth herein.
87. As was set forth above, Defendant is, and has been a publisher of books for a very long time. As a result Defendant is fully knowledgeable that it could have used Mr. Heimowitz's likeness, persona and/or name, only after it had secured Mr. Heimowitz's written consent. Defendant did not.

88. As a consequence, Defendant's wholly unwarranted, unlawful, intentional, reckless and/or negligent use of Mr. Heimowitz's name and persona, including the branding of Mr. Heimowitz as a convicted felon, intentionally inflicted emotional distress upon Plaintiff Mr. Heimowitz.
89. Starting on or about June 2010, when the Book was published, Defendant through its conduct discredited and humiliated Plaintiff Mr. Heimowitz.
90. As a consequence of Defendant's intentional infliction of emotional distress upon Plaintiff Mr. Heimowitz, Plaintiff Mr. Heimowitz sustained conscious pain and suffering.
91. Plaintiff Mr. Heimowitz's health was impaired. Mr. Heimowitz suffered great mental distress, shock, fright and humiliation, his reputation and character were injured, and he suffered economic loss.
92. As a consequence of the foregoing misconduct of Defendant, Plaintiff has been damaged in an amount exceeding the jurisdictional requirements of this Court, and is entitled to an award of compensatory and punitive damages in an amount to be determined at trial.

**COUNT VIII**  
**UNJUST ENRICHMENT - NEW YORK COMMON LAW**

93. Plaintiff Mr. Heimowitz incorporates by reference the allegations contained in paragraphs 1-92 of the Complaint as though fully set forth herein.
94. Mr. Heimowitz owns commercially valuable property rights in his name, likeness and commercial persona derived through his own skill, experience and labor.
95. Defendant, through its actions and for its own commercial benefit, has appropriated Mr. Heimowitz's persona, goodwill and reputation without his consent, thereby obtaining a benefit that in equity and good conscience they should not have obtained or possessed because it rightfully belongs to Mr. Heimowitz.
96. Defendant has been enriched at Mr. Heimowitz's expense under such circumstances that in equity and good conscience they ought not to retain.

97. Mr. Heimowitz seeks a preliminary and permanent injunction against Defendant, as well as all other remedies available under New York law, including, but not limited to, compensatory damages, attorneys fees, and exemplary damages.

**COUNT IX**  
**INTERFERENCE WITH A PROSPECTIVE ADVANTAGE**

98. Plaintiff Mr. Heimowitz incorporates by reference the allegations contained in paragraphs 1-97 of the Complaint as though fully set forth herein.
99. Due to the association of Mr. Heimowitz's name with the Heimowitz character in Defendant's Book, Defendant has interfered with Mr. Heimowitz's prospective business advantage as clients will not do business with Mr. Heimowitz.
100. Furthermore, Defendant has interfered with Mr. Heimowitz's license and his ability to periodically renew it, something that is very important to him. Not being able to renew his license will be extremely detrimental to Mr. Heimowitz and his family, both personally and professionally.
101. Unless Defendant is enjoined from their wrongful conduct, Plaintiff Mr. Heimowitz will suffer further irreparable injury and harm, for which it has no adequate remedy at law.
102. As a consequence of the foregoing misconduct of Defendant, Plaintiff Mr. Heimowitz has been damaged in an amount exceeding the jurisdictional requirements of this Court, and is entitled to an award of compensatory and punitive damages in an amount to be determined at trial.

[INTENTIONALLY LEFT BLANK]

**REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiff Douglas Heimowitz prays and respectfully requests the following relief:

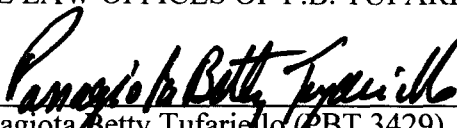
1. For judgment that:
  - a. Defendant has engaged in false or misleading representations or descriptions of fact in violation of Section 43(a) of the Lanham Act, *15 U.S.C. § 1125(a)*;
  - b. Defendant has violated Mr. Heimowitz's rights of privacy and publicity in violation of New York Civil Rights Law §§ 50, 51;
  - c. Defendant has defamed Mr. Heimowitz;
  - d. Defendant is unjustly enriching itself at the expense of Plaintiff, in violation of New York common law; and
  - e. Defendant is liable for each and every of the aforesaid violations of law.
2. For a preliminary and permanent injunction enjoining Defendant, and any successors or assigns, and its officers, directors, partners, agents, subcontractors, manufacturers, distributors, retailers, servants, employees, attorneys, affiliates, licensees, subsidiaries and related companies or entities, and all others acting in concert or participation with them, from:
  - a. Making any unauthorized use of Mr. Heimowitz's name, or any name confusingly similar thereto, for commercial or trade purposes, including but not limited to use in connection with the sale, publication or promotion of the Book;
  - b. Further publication, sales, distribution, advertising, or promotion of the Book and requiring Defendant to recall, repurchase, or otherwise obtain all unsold copies of the Book that have been distributed, delivered, sold or otherwise provided to wholesale distributors or retail merchants;
  - c. Making any misrepresentations or misleading statements concerning Plaintiff, and/or endorsements or approval by Plaintiff of any goods or services sold or

**DEMAND FOR A JURY TRIAL**

Mr. Heimowitz demands a jury trial on all counts.

Respectfully Submitted,  
INTELLECTULAW  
THE LAW OFFICES OF P.B. TUFARIELLO, P.C.

Dated: 08/31/2010

  
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Attorneys for Plaintiff  
DOUGLAS HEIMOWITZ



***Exhibit 1***

**Douglas Heimowitz**

20 St. Lawrence Place  
Jericho, NY 11753

**Summary of Qualifications**

- Superb Knowledge of Medicare Advantage products and industry.
- Sales and Marketing experience specific to New York marketplace.
- Ability to Rebuild/Retrain/Redesign a Sales Organization.
- Multiple Committee membership positions for “internal customers”.
- CMS, Policy and Procedure, Corporate Culture knowledgeable.

**Professional Background**

**August 2002 – Present**

**Elderplan/Associate Vice-President of Sales – Brooklyn, New York**

- Report directly to President/CEO.
- Rebuilt entire sales organization (2002-2003).
- Developed all sales compensation models.
- Oversaw membership increase from approx. 9000 to approx. 17000.
- Co-created Marketing Theme/Campaign/Selling Points.
- Member “Quality Improvement of the Plan” Committee.
- Member “Corporate Compliance” Committee.
- Member “Senior Management Council”.
- Launched Multiple Ethnic Sales Initiatives.
- Contributing reporter to Elderplan Board of Directors.

**October 1998 - February 2001**

**Aetna USHealthcare/Sales Manager – Uniondale, New York**

- Responsible for largest sales management territory in the country-New York City/Long Island.
- Presidents Club 1<sup>st</sup> Quarter, 2<sup>nd</sup> Quarter, 3<sup>rd</sup> Quarter, 4<sup>th</sup> Quarter 1999.
- Chairman’s Challenge Winner for Superior Sales Results 1999.
- Achieved 190% of sales plan for 1999.
- Y2K “Crunch” Award Winner- 1<sup>st</sup> Quarter 2000.

**February 1994 – August 1998**

**Oxford Health Plans/Senior Sales Manager – Norwalk, Connecticut**

- Involved in all aspects of staffing, corporate marketing, enrollment, operations, retention, and compensation planning.
- Consistently achieved 150%+ of aggressive sales goals.
- Senior Sales Manager (Of 5 Sales Manager, 48 Sales Reps).
- Committee member of Medicare Business Reduction Initiative – 1998.
- Corporate Award Winner for Superior Sales Performance 1994, 1995, 1996, 1997.

**Education**

**Queens College, C.U.N.Y., Flushing, New York**

**Degree: Bachelor of Arts, 1982**

**Major: English**

**Exhibit 2**

# STATE OF NEW YORK INSURANCE DEPARTMENT

**HEIMOWITZ, DOUGLAS M**

HEIMOWITZ, DOUGLAS M  
20 ST LAWRENCE PLACE  
JERICO NY 11753

**LICENSE NUMBER: LA-870238**

PRODUCER IS LICENSED AS AN INSURANCE AGENT FOR:

Accident and  
Health

EFFECTIVE DATE: March 08, 2010

EXPIRATION DATE: March 07, 2012

UNLESS SOONER CANCELLED, SUSPENDED OR REVOKED



In Witness Whereof,  
I have caused my official seal to  
be affixed at the city of Albany

**James J. Wrynn**  
Superintendent

**Exhibit 3**

## Elderplan News



### **Elderplan—Evolving to Meet the Needs of Our Providers and Members**

*A Message from Eli S. Feldman  
President and Chief Executive Officer*

The past year has been a significant period of growth for Elderplan, with a great deal of progress and change. As Elderplan has evolved this year, so too have the roles of several individuals. I am pleased to announce the following promotions:

- Donna Sedita—Vice President, Elderplan Operations
- George Ingram—Associate Vice President, NPO

We also welcomed Hany Abdelaal, D.O., as Elderplan's acting Medical Director. Dr. Abdelaal is responsible for determining the pharmacy formulary; overseeing the medical management department; and writing and reviewing all policies and procedures regarding the care of members. He is also the Vice President of HomeFirst, a Medicaid Managed Long-Term Care program and a participating agency of Metropolitan Jewish Health System.

Building upon the strength of Elderplan's foundation will enable us to serve our members and providers more efficiently. Whether it's streamlining our business operations, growing our provider and hospital network, or increasing our number of members, I am confident that we have the apt leaders to guide us towards an even brighter future.

Eli S. Feldman  
President and Chief Executive Officer  
Metropolitan Jewish Health System

### **Keep the Physician and Hospital Referrals Coming!**

With a network of providers at over 10,000 locations throughout Brooklyn, Queens, Staten Island, Manhattan and the Bronx, Elderplan is rapidly growing to meet the needs of our members. We are also currently affiliated with over 31 hospitals, but are always looking to bring on several more.

To increase the number of specialists that your patients may utilize, please consider recommending colleagues from within your natural referral pattern. We are still expanding our network in Manhattan and Staten Island, so we can continue to grow to meet the needs of our members. If any of your colleagues practicing in Manhattan and Staten Island do not yet belong to the Elderplan network, please consider referring them to us.

**We are still expanding our network in Manhattan and Staten Island, so we can continue to grow to meet the needs of our members.**

Elderplan would also like to add more hospitals to our network by the end of the year. If you have admitting privileges at hospitals that are not in the Elderplan network, please consider referring them to us by contacting our Customer Service Department at (718) 921-7979.

### **Be On the Lookout for Elderplan's Provider Satisfaction Survey**

Elderplan's goal is to ensure that working with us is virtually seamless for our providers. To better understand your needs and how we can enhance your experience with us, we will be sending you a Provider Satisfaction Survey in the near future. These surveys help us modify our policies in accordance with your response. We encourage you to participate—and we look forward to your feedback.

## Recent Enhancements

As a result of your feedback at Provider Focus Group meetings and prior surveys, Elderplan has modified the following in order to best accommodate our providers:

- **Changing Timeframes**

Appeals—increased from 60 days to 180 days

Initial claim submission—increased from 90 to 180 days

- **Elimination of Paper Referrals**

Elderplan no longer requires referrals for participating specialist visits, which eliminates burdensome paperwork for our providers. This enables you to be able to utilize Electronic Data Interchange (EDI), which significantly decreases the processing time of your claims. Please note: referrals are not needed for participating specialists. Non-participating specialists still require prior authorization.

- **Reduction of Prior-Authorizations**

Elderplan has reduced the number of services that require prior authorization. This makes it easier for you to refer, while diminishing unnecessary paperwork.

- **Availability of IVR and EDI**

The implementation of Interactive Voice Response system (IVR) and Electronic Data Interchange (EDI) has enabled our providers to retrieve and transmit the information you need – at your convenience.

**Elderplan no longer requires referrals for participating specialist visits, which eliminates burdensome paperwork for our providers.**

- **Enhanced Provider Page on Elderplan Website**

We've updated our website to include our *Provider Manual*; 2006 Elderplan Benefits At-A-Glance; instructions for EDI and IVR; recent editions of *Provider Quarterly*; and a link to Bio-Reference Laboratories, so you can check your lab results online.

Elderplan will strive to ensure that doing business with us is as easy as possible for you. If you have any feedback or questions, please feel free to contact our Customer Service Department at (718) 921-7979.

## CODING CORNER

### The Importance of Documenting Non-Symptomatic Conditions

Elderplan reviewers recently reported that non-symptomatic conditions are often overlooked in patient records. It's important to document and report all of the diagnoses that impact patient care, including conditions that are non-symptomatic. A study published in the *Annals of Internal Medicine* concluded that patient diagnoses are often missing from claims submitted to insurers.

For instance, one common omission our reviewers found is the diagnosis of Old Myocardial Infarction (MI). In this case, if an EKG shows demonstrable changes in the post-MI patient, it should be noted in the record and reported on the encounter forms submitted to Elderplan.

The appropriate diagnosis codes for reporting infarctions are as follows:

#### History of MI, EKG changes, no current symptoms

(8 or more weeks after acute MI)	412
----------------------------------	-----

#### Acute MI, including reinfarction of old MI

(XX indicates specific infarction site; see your ICD-9-CM material)	410.XX
--	--------

Acute MI and old MI in different sites	410.XX + 412
--	-----------------

Quality patient care and efficient documentation are in compliance with Elderplan's requirements, ensuring we can completely and accurately report to Medicare. In order to update our records, we have been mailing requests for diagnosis information to various providers. If you receive such a request, please read the instructions, complete the attached form as accurately and fully as you can, and return the form to us promptly. We appreciate your help.



## Elderplan News

### West Nile Virus Concerns Lead to DOH Pesticide Poisoning Registry

As concerns regarding West Nile Virus (WNV) have increased recently, some areas in New York may be utilizing pesticides to control mosquito populations. To address the public health concerns related to WNV and the use of pesticides, the New York State Department of Health (NYSDOH) has created a Pesticide Poisoning Registry.

**A definitive diagnosis is not needed prior to your call—and there is no paperwork for you to complete.**

Since pesticide poisonings were added to the list of reportable conditions in New York state in 1990, physicians and health care facilities are now required to report suspected or confirmed cases. This means calling the NYSDOH Pesticide Poisoning Registry within 48 hours of treating any patient you suspect of having pesticide poisoning. A definitive diagnosis is not needed prior to your call—and there is no paperwork for you to complete. The NYS-DOH will investigate and collect information about the reported case to monitor the health effects of pesticides.

For more information or to report a patient you suspect may have pesticide poisoning, please call the NYSDOH Pesticide Poisoning Registry at 1-800-322-6850.

### Need Answers? Contact Customer Service

Whether you want to check on the status of a claim or have questions about Advance Directives – Elderplan Customer Service is here to assist you Monday through Friday, 9 a.m. to 5 p.m.

### Reminder: Recredentialing

In order to ensure we have the most accurate demographic information on file, Elderplan requires that our providers be recredentialed every three years. When you are due for recredentiaing, you will receive paperwork in the mail. Please complete all forms and return them to us in a timely manner.

In addition, please be sure to let us know in writing if your office location or phone number changes. For your protection, you must alert us in writing.

If you have any questions or concerns, please feel free to contact Customer Service at (718) 921-7979.

### Claims Reminders

#### Claims P.O. Box

To ensure that we receive your claims in a timely manner, please keep in mind that all claims should be addressed to our new post office box at:

#### Elderplan Claims Department

P.O. Box 73111  
Newnan, GA 30271-3111

This address is to be used only for claims. All other correspondence should be mailed to:

#### Elderplan

745 64th Street  
Brooklyn, NY 11220

Sending your claims to the proper address will ensure that they are processed efficiently, thus ensuring you get paid on time.

#### HCFA 1500 Units of Service

The HCFA 1500 Units of Service is a field that you are now required to fill out on claims forms that you submit. If you have any questions or concerns, please feel free to contact Customer Service at (718) 921-7979.

#### Elderplan Customer Service

Phone: (718) 921-7979

Email: [epdedi@mjhs.org](mailto:epdedi@mjhs.org)

Fax your name, provider identification number and telephone number to: (718) 921-7962



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## Magazine Articles

### Nachas Health Network Honors Community and Government Leaders

Tuesday, January 06 2009 06:14

On a recent Sunday, Nachas Health and Family Network, Inc. hosted their Inaugural Legislative Breakfast.

Hundreds of religious leaders, community philanthropists and politicians came together to pay tribute to a number of elected officials and community leaders whose leadership is instrumental in allowing Nachas to fulfill its mission: to ensure that every child, family and senior access quality health care and social services through direct services, referral entitlement navigation and advocacy. Nachas Health and Family Network, Inc. is a not-for-profit community-based organization that was founded in 1990 by Rabbi Pinchus D. Horowitz to address the gap in health services facing the underserved immigrant and Jewish communities in Brooklyn. Nachas strives to help children, families and seniors attain physical and psychological wellness in a dignified manner.



**Nachas Health & Family Network, Inc.**

*Creating Healthy Solutions For You*

William Rapfogel, CEO of Metropolitan Council on Jewish Poverty opened the program by introducing Nachas founder, Rabbi Pinchus D. Horowitz, Chuster Rav, who delivered greetings.

The breakfast was coordinated by The Friedlander Group and chaired by Assemblyman Dov Hikind, whose advocacy and passionate support of Nachas is crucial to the organization's success, and the services and programs it offers to the community. Mr. Hikind also presented Douglas Jablon with the Community Hakoras HaTov Award and praised him as a true Ba' Hessed for all his efforts as Vice President of Patient Relations and Volunteer Services at Maimonides Medical Center. Congressman Jerry Nadler presented a Community Tribute Award to Joe Lazar in appreciation of his facilitating important programs to assist Holocaust survivors.

Brooklyn Borough President Marty Markowitz warmly praised NYC Comptroller Bill Thompson and presented him with the City Leadership Award. The State Leadership Award was presented by Mr. Rapfogel to New York State Comptroller Tom DiNapoli. Health Plus has been serving the community for many years and is singularly responsible for advancing the medical and health care of the Boro Park community. Remarks were delivered by Congressman Ed Towns, State Senator Diane Savino and Assemblyman Rory Lancman.

Councilman Simcha Felder presented DYCD Commissioner Jeanne Mullgrav with the City Leadership Award. DYCD Director of Legislative Affairs Andrew Miller accepted the award.

The highlight of the program was when Senate Democratic Leader Malcolm Smith—the presumed Senate Majority Leader—was introduced by Assemblyman Dov Hikind as a true mensch who has committed himself to supporting community initiatives. Senator Smith, a deeply religious man, praised Nachas for serving the public and pledged to do all he can to help the organization continue its wonderful work.

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**Exhibit 4**

# LAY

the

# FAVORITE

*A Memoir of*  
**GAMBLING**

*Beth Raymer*

## **An eye-popping and hilarious joyride through the underworld of sports betting**

**B**eth Raymer arrived in Las Vegas in 2001, hoping to land a job as a cocktail waitress at one of the big casinos. In the meantime, she lived in a \$17-a-night motel with her dog, Otis, and waited tables at a low-rent Thai restaurant. One day, one of her regular customers told her about a job she thought Beth would be perfect for and sent her to see Dink, of Dink Inc. Dink was a professional sports gambler—one of the biggest in Vegas. He was looking for a right-hand man—someone who would show up on time, who had a head for numbers, and who didn't steal. She got the job.

*Lay the Favorite* is the story of Beth Raymer's years in the high-stakes, high-anxiety world of sports betting—a period that saw the fall of the local bookie and the rise of the freewheeling, unregulated offshore sports book, and with it the elevation of sports betting in popular culture. As the business explodes, Beth rises—from assistant to expert, trusted and seasoned enough to open an offshore booking office in the Caribbean with a few associates, men who leave their families up north to make a quick killing, while donning new tropical personas fueled by abundant drugs and local girlfriends, and who one by one succumb to their vices. They lie, cheat, steal, and run, until Beth is the last man standing.

*(continued on back flap)*



# **LAY THE FAVORITE**

A MEMOIR OF GAMBLING

**Beth Raymer**

SPIEGEL & GRAU

NEW YORK

2010

*Lay the Favorite* is a work of nonfiction. Some names and identifying details have been changed.

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First Edition

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**To Jeremy**

The office park sat in a patch of desert eight miles off the Strip. Every few steps, Otis stopped to sniff and pee on the benches. Dragging him past the professionally dressed men and women enjoying their smoke break, I pulled the address out of my pocket. I hadn't imagined gamblers doing business alongside divorce lawyers and accountants. In my denim miniskirt and Converse sneakers, and with Otis scruffy and panting at my side, I felt more like a teenage runaway than an interviewee. I pulled my hair out of its ponytail so that it fell over my shoulders and hid my bra straps.

In a row of offices with signs like Nevada Insurance and Coldwell Banker, stood a suite with no sign and white plastic blinds covering its windows. Next to the door was a square address plaque and scrawled in its center, in Wite-Out correction pen, was "Dink Inc." From inside, a television blared. The sound of a bugle summoned horses to the starting gate at a racetrack. I knocked.

The door opened, revealing a guy about six-foot-four, two hundred and eighty pounds. His hair was a heap of shiny, springy brown curls, the kind you see in ads for home perms. Tucked into his armpit was a *Daily Racing Form*, and in his hand was a puffy white bagel overstuffed with lox. He introduced himself as Dink, then took a bite of his sandwich. With mouth full, he asked if my dog had an opinion on the Yankees game.

Dink was in his late forties, but his bashful smile and distracting habit of twisting his curls around his pointer finger made him appear much younger. He dressed like the mentally retarded adults I had met while volunteering at a group home. His Chicago Cubs T-shirt was two sizes too small for his expansive frame. Royal blue elasticized cotton shorts were pulled high above his belly button. White tube socks were stretched to the middle of his pale, hairless shins.

Inside the suite, a long banquet table was cluttered: hockey digests; baseball encyclopedias; a baseball prospectus; sports pages from *USA Today*, the *New York Post*, the *Las Vegas Review-Journal*; dozens of calculators; telephones; mechanical pencils; computer monitors; and several copies of *Fuzzy Creatures Quarterly*, a maga-

## CHAPTER TWO

# Dinky

When Dink Heimowitz was eleven years old his mother, Freda, took him and his friend Howie on a subway ride to the 1964 World's Fair in Flushing, Queens. Alongside the General Motors Futurama exhibit and the stained-glass windows of the Vatican pavilion was a more modest display that captured Dink and Howie's attention.

It was the Minnesota state exhibit. As the two friends admired a large stuffed moose, something caught their eye. Hanging on the wall, above the moose's antlers, numbers scrolled across a small black screen: the updated scores for the Minnesota Twins game. Twins 4, White Sox 3, bottom of the sixth.

A sports ticker. Dink was awestruck.

"Can you believe it?" Dink whispered to Howie. "In the future, no matter where we are in the world, we'll be able to see baseball scores!"

Scores. Even as a kid that was what interested Dink most. Not which team was winning or losing, but by how much.

One morning, on his way to Hebrew school, Dink came upon a group of older kids crouched in a circle. They looked over their

eighty cents on his two dollars and thought that betting horses had to be the best way, ever, to make money. Dink stood six-foot-two and had a deep sense of purpose and belonging; the mutuel clerks never once asked to see his ID. He went to the track nearly every day thereafter. With his winnings, he bought a busted-up '59 Chevy Bel Air. Sparks shot from the steering wheel each time he drove over a pothole.

Eventually the track became the axis around which all of Dink's life revolved. It was where he made friends and money, took dates. Where he watched Hank Aaron break the home-run record. Where he was the day his father died, where he met his wife. And it was where he was introduced to many of the people who helped him throughout his career.

Lenny Goldfarb was a chubby gay bookmaker from Brooklyn who often hung out with Dink and his friends on the steps outside of Yonkers Raceway. He was always interested in seeing if there was any sexual potential with any of the young guys in the group, but even more interested in recruiting customers.

"Dinky!" Lenny hollered one night, as he approached Dink on the steps. Dink was only sixteen, but already a freshman at Queens College. "Dinky. Look. Why don't ya get your friends together, and tell 'em to bet with me. I'll give ya twenty-five percent of their losses. All you gotta do is make sure they pay when they lose, then give the money to me."

A quarter sheet. Free money! Dink's friends always lost when they bet on sports. Dink always lost too. Now all Dink had to do was simply exist and let his friends lose and he'd get twenty-five cents for each dollar they owed Lenny.

By being a part of Lenny's business, Dink pocketed twenty, thirty extra dollars a week. More important, though, he learned how a bookmaker made money. In taking bets from gamblers the bookie is only concerned with making sure that, no matter what a game's outcome, the amount he owes the winning gamblers is matched by the amount of money losing gamblers owe him. He could always gamble, and take a position on games to try and make more money,

The head agent handed Dink his business card. "I'll get back to you," he said. "We know who you're working for."

At the Bayside Diner, Dink, Lobster, Bobby Nebbish, and Fat George sat at a round table.

"It has not been a wonderful day," Dink said. He considered the menu, then set it aside. He always ordered the tuna on rye. Today wouldn't be any different.

"I didn't roll on anybody," Fat George said.

"George!" Lobster said, losing patience. "We were there! We were bookin'! It was obvious."

"I didn't say that," Fat George said. "I told 'em, 'I don't know a thing.'"

"At least we're not sleeping in jail tonight," Nebbish said.

"I don't know," Dink said. "I think it's worse that they let us go home. I might have a real situation here. The FBI is kind of scary."

Lobster leaned closer to Dink and whispered over his menu, "Dinky, relax. You're not in the Mafia. You're just a Jewish bookmaker from Queens. That's kinda clear."

Dink was just a Jewish bookmaker from Queens. Everybody knew that. Growing up in Rochdale and Forest Hills and being in the gambling business, Dink had spent plenty of time around Italian mobsters. But they respected that Dink didn't want to get involved in their businesses and have sit-downs. The Italian mobsters let the Jewish bookmakers be Jewish bookmakers and the Jewish bookmakers knew they could always go to Italian mobsters for help, but then they owed them.

"He said he knows who I work for," Dink said. "How much trouble can you get in if the FBI thinks you just work for somebody?"

Long after his crew finished their sandwiches and left, Dink stayed at the diner. He couldn't make sense out of the raid. Why hadn't he gotten arrested? Lou, the bookmaker who got busted in Brooklyn, was mob related, and the FBI didn't take him to jail, either. Same with Joey Useless, in Manhattan, whom the FBI

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golf after her shift. No longer in need of an instructor, she'd play as a single.

The same year that Tulip got sober, Dink, dressed in suit and tie, sat beside his attorney, Burdick—a friend from Dink's fantasy baseball league. The person whom the FBI believed Dink worked for—a Detroit bookmaker named Henry Hilf—was actually just one of Dink's customers. Through his mob ties, however, Hilf had established a nationwide multimillion-dollar bookmaking syndicate that operated in Detroit, Miami, Pittsburgh, Las Vegas, the Ohio Valley, and New York City. The FBI was confident Dink was in the Mafia.

"I booked seventeen policemen who I played softball with. That didn't make me a cop," Dink said to Burdick. "They can't say that because I booked a guy in the mob I'm a mobster!"

This was something that most people, law enforcement included, either had a hard time understanding, or didn't want to understand. Most bookmakers did not know their customers personally. They were, in most cases, just voices over a telephone that placed bets using code names. If an agent or a friend put someone into Dink's office, Dink had no way of knowing if the new customer was a butcher, baker, mayor, or mobster.

"I never met that guy," Dink continued. "I just booked him. I'm in the market where you get a five-hundred-dollar fine and a night in jail. Keep me in that market."

Burdick told him he wouldn't go to jail. He would never be able to make book again without risking prison time, but he would not go to jail.

The Honorable George E. Woods entered the courtroom.

"All rise."

~~\_\_\_\_\_~~ v. ~~\_\_\_\_\_~~ A.k.a. Dinky.

"You may be seated."

"Mr. Burdick. Did your client take bets from Mr. Henry Hilf?" the judge asked.

THE WINNER'S CIRCLE / 71

"Yes, your honor," Burdick replied. "He's a New York City book-maker, that's his job. Nothing more than that."

"[REDACTED] getting a ten thousand dollar fine and one year at a corrections center," the judge said. "I don't have any facility. You and your attorney figure that out."



BETWEEN US / 99

When we arrived at the Miami airport and checked in for our flight, Dink really did have to show his felony card to the attendant behind the counter. The expression on her face changed as she read the word convicted. Convicted.

"Thank you, sir," the woman stammered, returning the card.

I snatched it from her hand before Dink could take it back. It was the size of a business card and as pink as a valentine. I slipped it into my back pocket, for a keepsake.

Beth Raymer is a natural storyteller: funny, charming, and fully awake to the ironies around her. But she is also a keen and compassionate observer of the adrenaline-addicted, roguish types who become her mentors, her enemies, her family. Raymer brings to life a world that teems with pathos and ecstasy in this wild picaresque that also tells the story of a young woman's crazy, sexy, most unlikely coming-of-age.



PHOTO: © D. V. DEVINCENTIS

**BETH RAYMER** has an MFA from Columbia University. In 2007 she was awarded a Fulbright scholarship. She lives in New York City.

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"Strange as hell, wildly affectionate, and very, very funny. It is a world filled with scoundrels, thieves, and gamblers. It is a world we all recognize, where everyone is looking to somehow come out on top while doing what they love. The book is wise and has a relish for life that is a treat."

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"Beth Raymer's prose is like a virgin in a sandy bikini festooned with C-notes. In this wickedly funny debut, from Vegas to Rio, from the boxing ring to the stripper's pole, she rubs shoulders and other things with the sickest crew of action junkies since Roulettenburg. Her ear for sports bettors' patois, for the ins and outs of pleasure, self-pleasure, and getting the best of it, makes *Lay the Favorite* a kaleidoscope of high-test debauchery."

—JAMES McMANUS, author of *Positively Fifth Street*

"Beth Raymer possesses one of the most original voices I've encountered in years of teaching, reading, and reviewing young writers. She puts that voice to ideal use in depicting the demimonde of sports gambling, the place where she finds an unlikely but uncanny surrogate family. *Lay the Favorite* is a coming-of-age saga like no other you're ever likely to read."

—SAMUEL G. FREEDMAN,  
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**Exhibit 5**

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# Gal writes the book on bookies

## Big Apple gambling tales

By BRAD HAMILTON  
Last Updated: 6:54 AM, June 20, 2010  
Posted: 3:24 AM, June 20, 2010  
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Like 16 people like this.

Beth Raymer was in a panic.

Her biggest player, a Long Island guy named Dave Greenberg, lost a bundle, wouldn't pay and couldn't be found. Raymer, a bookie's agent, knew an uncollected debt spelled disaster.

Finally, she got a chilling voice message from the deadbeat himself.

"I was in trouble in the stock market years ago... I'm on probation," he said. "And, uh, my parole officer wants to talk to me about who I've been speaking to on my cellphone. He has all the numbers."

The numbers included the cell of her fiancé, Jeremy, who had been collecting bets for her start-up, and now Raymer faced a horrible choice: Eat the \$25,000 debt or risk jail for both of them. She had to make Dave settle up without getting ratted out.



HITTING THE VIG TIME: Brooklyn writer Beth Raymer used to collect debts as a bookie's assistant.

But how was a nice girl like Raymer, 34, a Fulbright scholar with an endearing giggle and a habit of twirling her curls, supposed to pull off a Tony Soprano?

She recounts those and other high-stakes dramas in "Lay the Favorite," an account of her life working in the underground trenches of professional, and often illegal, gambling, which took her across New York City, Las Vegas and the seedy international betting meccas of Curacao and Costa Rica.

Many who rule the industry are nothing like Hollywood's tough-talking Mafiosi, she says. They're nebbishy nerds who pig out on junk food, gaze at computers all day, work constantly and have no clue how to deal with people.

"They're all Jewish kids who went to Stuyvesant," Raymer says. "They're mathematically inclined, but their social skills are lacking. It's what makes them cute."

The daughter of a Florida car salesman with a gambling problem, Raymer had been to the track a few times as a kid but had a sketchy résumé: amateur boxer, social worker, "in-house stripper" — she danced for lonely-hearts at their homes for \$150 an hour — and waitress.

She met bookie Douglas "Dink" Heimowitz, of Forest Hills, Queens, through a mutual friend in 2001. After taking a job as his assistant, Raymer met all manner of comically named insiders, including Fat George, Texas Toast, Chunky, Bah-Bah and Yitzhak, a

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...vily colored Israeli chiseler who claimed he could read through playing cards with a laser hidden in his ring.  
 "New Yorkers love sports, and they love to gamble," said Raymer, who lives in Fort Greene, Brooklyn. "The minute you open that can, people are like, 'I need that! Can you get me in?' "  
 One of her tasks was "pay and collect" — delivering winnings and taking money from those who lost. It brought her to every corner of New York, "from a laundromat in Chinatown to a dentist office on Park Avenue," she told The Post.

"My biggest fear was leaving behind a backpack on the subway with tens of thousands of dollars."  
 And, of course, there was always the worry about getting busted. Betting on sports is illegal almost everywhere outside of Vegas, and bookmaking can earn you a lengthy prison term.  
 That nightmare became a possibility with Raymer's dilemma over Greenberg, who ran up his \$25,000 tab betting on NFL games in a single, disastrous weekend.  
 "He was a huge Jets fan," she said.  
 They worked out a risky compromise. He paid her \$1,000, and she agreed to reopen his account.  
 When the lucky louse hit a long-shot, seven-team baseball parlay, the day was saved. The \$25,000 debt was more than wiped out. Dave even won \$20,000 more.

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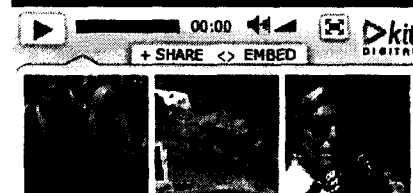
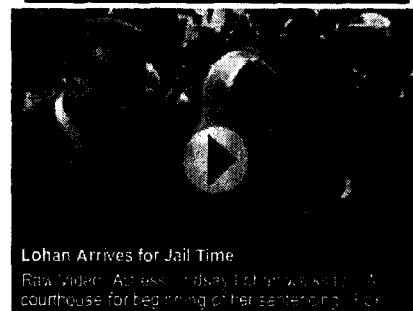
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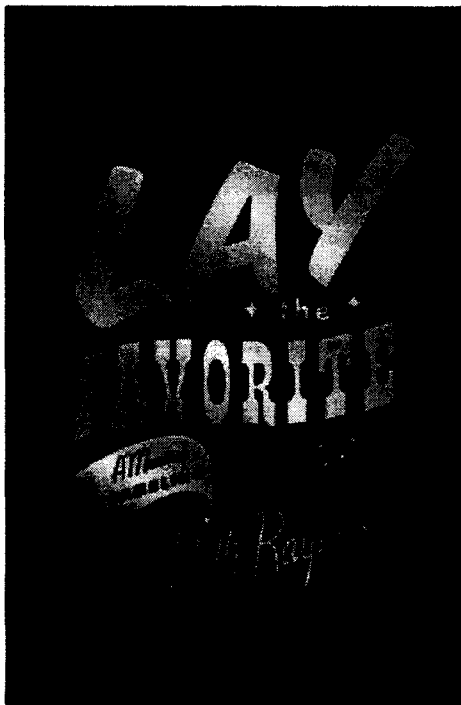
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July 1, 2010

### Luck Be a Lady

Posted by *Elizabeth Minkel*



At the racetrack, most of my customers are big losers. In seven years as a pari-mutuel clerk—a job I wrote about for this year's Belmont Stakes—I've catalogued the ways gamblers part with money: laboring over the racing form; tossing a couple hundred my way on a drunken whim; betting in tiny increments every few minutes, as if it doesn't all add up in the end. Other than a predilection for picking bad horses, my career gamblers, amateur and professional alike, have only one thing in common: their sex. Nine out ten regular customers are men. Many of them are perfectly polite, but many of them are not. They harass me, ask for my hand in marriage, and have trouble keeping their eyes above my neck. "I haven't won a single race in two days," a man once told me. "Take off your top." Their buddies often egg them on; this guy's friend simply shrugged and said, "Don't mind him. He's drunk."

The gender imbalance at the racetrack creates a strange dynamic, and I'm fascinated when female *gamblers* approach my window. Not wives or girlfriends or groups of ladies with floppy hats and cocktails placing show bets, but women who handicap and bet aggressively. So it was with great interest that I picked up a copy of Beth Raymer's "Lay the Favorite: A Memoir of Gambling." Raymer largely avoids the track; she worked primarily in sports gambling. She learned the ropes

assisting Dink, a career bettor in Las Vegas, and later worked as a "Girl Friday" for Bernard, a bookmaker on Long

Island. Her debut is an engaging tale of restless confusion, written in the chatty style that's ubiquitous in the modern memoir. Dink and Bernard are beautifully sketched out, most likely because Raymer was as captivated by her mentors as I was by her, devoting entire chapters to their backstories (and, tellingly, thanking their mothers in the acknowledgments).

The book is an entertaining (and often quite funny) one, though it falls into the weird dichotomy of the gambling world: Raymer is simultaneously in awe of the amount of money changing hands and frustrated by the dank grimness of the industry. \$100,000 transactions *should* be glamorous, but the general air of desperation kind of kills the mood. Her gamblers are a lot like mine: studious but irresponsible, they are perpetual children, and though they're almost exclusively men, she barely touches the gender question. She describes herself as girlish, but it comes off as more childish than anything else; perhaps it's like the murky liminal state of the mistress, in which relations between men and women can resemble those between father and daughter. References to the gender imbalance are sparse—the issue comes up a few times in Vegas and occasionally on Curaçao, where she worked with a group of sleazy, adulterous men:

“Looking up, I found myself centered in a huddle of heavy, oily manliness. The air grew thick with body odor and hair tonic and stale breath. They belched and blew into the face of whoever was standing beside them. For the most part, I liked these guys. I enjoyed watching them work and listening to the dramatic scope of lies they invented to explain away odd credit-card purchases and abrupt changes of banking passwords. I felt for them as they suffered through the guilt triggered by family visits, arranged by their loving, adoring wives so the kids could see how hard Daddy worked.

“But I missed the company of women.”

Her solution is to invite over the girls from a local brothel, and within a page, they disappear, all is forgotten, and her isolation is no longer an issue. Raymer previously worked as an “in-home stripper,” making house calls and fulfilling strange fantasies (the most troubling of which was an English professor who asked her to strip, sit on a stool, and read aloud from “In Cold Blood”). When she hesitantly recounts these stories to Dink, he tells her, “You’re gonna do great in this business! ... [You’re] one of us.” In some ways, she is: she proves herself capable of swindling and throwing money around carelessly while still obsessing over how it’s made. But she is not that rare female handicapper; for the most part, she doesn’t even gamble, and she takes nearly every cue from the men in her life.

The exception is her amateur boxing career, which quietly and steadily threads through the book as she agonizes over her love life and darts around the country. “Female boxers love to train and hate to fight,” Raymer writes. She doesn’t hold back; she fights, hard, and it’s a delight to read. Raymer might paint herself in a less than flattering light, but in the ring, you can’t help but get in her corner.

### **Keywords**

- Beth Raymer;
- Lay the Favorite: a Memoir;
- gambling;
- sports

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### Taking a Gamble



Peter DaSilva for The New York Times

The sports betting rooms in the Mandalay Bay Casino Hotel, Las Vegas, 2006.

By LYNN HARRIS

Published July 1, 2010

Six 40-inch televisions, each showing a different sport; a banquet table cluttered with hockey digests and Yoo-Hoo; the boss sausaged into tube socks and armed with a copy of "Hide Your A\$\$et\$ and Disappear": no, this is not your typical workplace. But then, professional sports betting — a sordid, florid microworld lurching along the edge of society, not to mention legality — is not your typical job. And Beth Raymer's account of her years in the peripatetic employ of high-stakes sports bettors is not your typical gambling memoir or, really, your typical memoir at all.

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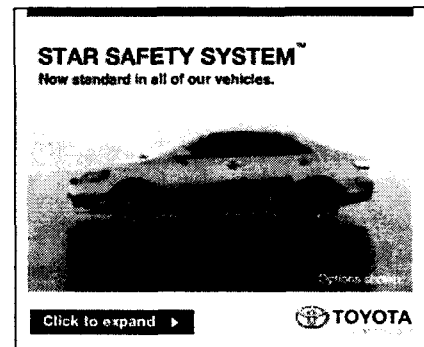
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Excerpt: 'Lay the Favorite' (July 11, 2010)

Generally, gambling memoirists — Martha Frankel ("Hats and Eyeglasses"), Bill Lee ("Born to Lose"), to name two examples in this mini-genre — concentrate on their own addiction. But Raymer does not really have a betting problem: just a taste for thrills, a craving for a surrogate family and a high tolerance for lowlifes. Within the first several pages of "Lay the Favorite," she gets fired from a group home for letting three troubled girls run away, moves to Las Vegas because of a boyfriend, breaks up with him and lies her way into a job placing customers' bets for one Dink Heimowitz — he of the tube

socks — at Dink Inc.

What Raymer initially lacks in applicable skills she makes up for with her performance on the job, and with a sheer fondness for gambling inherited from her adoptive father (who did have a problem). "As long as I sat next to my dad, the dealers let me play," she writes of her first of many childhood casino trips. "When I was dealt blackjack, Dad would yell 'Beth



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-annana! Big-banana!' and give me a high-five. I'd take a sip of his beer and wiggle my toes inside my pink glitter jellies in excitement." Raymer finds herself both hooked on the job's adrenaline rush and sweetly at home with her motley new crew; eventually, she's accepted into the larger brotherhood of gamblers who gather beneath outdoor chandeliers and have names like Lobster, as well as very angry wives. ("They like you," Dink assures her about his friends. "But they barely tolerate women.")

Technically, "Lay the Favorite" is not 100 percent memoir. It's also a tragicomic biography of Raymer's misfit-math-whiz boss-slash-father figures: first Dink, and then — after an incomplete attempt to leave gambling for, well, boxing — Bernard Rose of Ronkonkoma, N.Y., a manic raconteur with a Rabelaisian appetite for garlic knots and pedicures. Raymer is an ace at description: from American neo-gothic detail (her sister lived with "an abusive drug addict who had a Lee Press-On Nail for a front tooth") to gambling patois ("Gimme the Bulls first half, over oh one minus the oh nine for two dimes"). The generous emphasis on her mentors underscores her even greater strength: compassion. She never condescends or indulges in reality-show caricature; she finds charm in the charmless, a point of light in the most lost of souls. (Sometimes to a fault: said souls include a violent, amoral co-worker who brags about his sexual exploits and searches the Web for penicillin to administer to his thieving, penicillin-allergic dad.)

It's this solicitude that makes all the more puzzling — and sour — Raymer's shabby treatment of a sad-sack addict who owes her money. If this story is accurate, deeper self-reflection is wanting. And Raymer's discussion of her stint as an amateur boxer never quite meshes with the rest.

But tidiness and lack of ambiguity are probably not what we want from a memoir and — as we've learned — not what Raymer wants from life. By book's end, she's engaged, and not to a gambler. Still, though her publisher's bio hints of august achievements to come (she has an M.F.A. from Columbia and was awarded a Fulbright scholarship in 2007), it's clear she's not about to settle down. Will she ever really abandon her search for the next thrill? I wouldn't bet on it. h

*Lynn Harris, a journalist, is the author of the novel "Death by Chick Lit" and other books.*

A version of this review appeared in print on July 11, 2010, on page BR15 of the Sunday Book Review

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